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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,455	06/26/2003	Ashish M. Sukhadia	2039.014082/RFE	3481

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EXAMINER

CHOI, LING SIU

ART UNIT PAPER NUMBER

1713

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,455

Applicant(s)

SUKHADIA ET AL.

Examiner

Ling-Siu Choi

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, '1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/26/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This application is a Division of US Application Serial No. 09/932,411 filed August 20, 2001, now US Patent No. 6,617,403, which is a Continuation of US Application Serial No. 08/813,128, filed March 7, 1997, now abandoned.
2. This Office Action is in response to the Preliminary Amendment filed June 26, 2003. Claims 1-8 were canceled and claims 9-12 have been added. Claims 9-12 are now pending, wherein claims 9-12 are drawn to a composition comprising ethylene/higher mono-1-olefin copolymer.

Claim Objections

3. Claims 10-12 are objected to because of the following informalities: claims 10-12, line 1, "A copolymer according to 9" is suggested to be changed to --A composition according to 9 comprising an ethylene/higher mono-1-olefin copolymer--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102/103

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Norwood et al. (US 4,312,967).

The present invention relates to a composition comprising an ethylene/higher mono-1-olefin copolymer having

a	a density	= about 0.935-0.96 g/cc
b	a high load melt index	= about 0.5-30 g/10 min
c	a critical shear rate for the onset of melt fracture	> about 1200 sec ⁻¹

(summary of claim 9)

Norwood et al. disclose a polymerization process in the presence of a catalyst comprising (a) chromium oxide on a titanium-containing silica support having at least about 3 wt % titanium and (b) an organoboron promoter, wherein the component (a) is activated by calcining at a temperature within the range of about 400° to 1000°C (about 750-1830°F) in a dry atmosphere containing oxygen (abstract; col. 5, lines 12-15).

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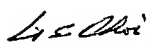
Attention is drawn to run 14 in Table I, wherein the reactor temperature is 91.1°C and the thus obtained polymer has **HLMI of 10.2 g/10 min.** and **density of 0.950 g/cc.**

However, Norwood et al. are silent on the specific critical shear rate for the onset of melt fracture. In view of the substantially identical catalysts used in the present invention and the disclosure of Norwood et al. and the substantially identical HLMI and density for the polymers obtained by using the corresponding catalysts, the critical shear rate for the onset of melt fracture would possess the claimed values. Since the PTO does not have proper means to conduct experiments, the burden of proof is now shifted to applicants to show otherwise. **In re Best**, 562 F.2d 1252, 195 USPQ 430 (CCPA 1977); **In re Fitzgerald**, 205 USPQ 594 (CCPA 1980).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ling-Siu Choi whose telephone number is 571-272-1098.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on 571-272-1114.


LING-SUI CHOI
PRIMARY EXAMINER

December 10, 2004.